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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**Assembly Constitutional Amendment**

**No. 22**

**Introduced by Assembly Member Pringle**

May 14, 1997

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Assembly Constitutional Amendment No. 22—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 2 of Article XIII A thereof, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

ACA 22, as amended, Pringle. Property taxation: transfer of base year value: environmental problems.

The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975–76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. As exceptions to this definition, the California Constitution provides, in certain circumstances, for the transfer of the base

year value of a real property to a replacement property of equal or lesser value that is located in the same or a different county.

This measure would provide that, with respect to a qualified contaminated property, as defined, the base year value of the property may be transferred to a replacement property of equal or lesser value that is located within the same or, in certain circumstances, a different county, and is acquired or newly constructed as a replacement for the qualified contaminated property. This bill would also alternatively provide, in the case in which the remediation of the environmental problems requires the destruction of, or results in substantial damage to, a structure located on the qualified contaminated property, that the term “new construction” does not include the repair or replacement of that structure, provided that the repaired or replacement structure is similar in size, utility, and function to the original structure. This measure would apply these alternative ~~requirements~~ *provisions* only to real property that is qualified contaminated property on or after January 1, 1995.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1 *Resolved by the Assembly, the Senate concurring, That*  
2 *the Legislature of the State of California at its 1997–98*  
3 *Regular Session commencing on the second day of*  
4 *December 1996, two-thirds of the membership of each*  
5 *house concurring, hereby proposes to the people of the*  
6 *State of California that the Constitution of the State be*  
7 *amended by amending Section 2 of Article XIII A thereof,*  
8 *to read:*

9 SEC. 2. (a) The “full cash value” means the county  
10 assessor’s valuation of real property as shown on the  
11 1975–76 tax bill under “full cash value” or, thereafter, the  
12 appraised value of real property when purchased, newly  
13 constructed, or a change in ownership has occurred after  
14 the 1975 assessment. All real property not already  
15 assessed up to the 1975–76 full cash value may be  
16 reassessed to reflect that valuation. For purposes of this  
17 section, “newly constructed” does not include real

1 property that is reconstructed after a disaster, as declared  
2 by the Governor, where the fair market value of the real  
3 property, as reconstructed, is comparable to its fair  
4 market value prior to the disaster. Also, the term “newly  
5 constructed” shall not include the portion of  
6 reconstruction or improvement to a structure,  
7 constructed of unreinforced masonry bearing wall  
8 construction, necessary to comply with any local  
9 ordinance relating to seismic safety during the first 15  
10 years following that reconstruction or improvement.

11 However, the Legislature may provide that under  
12 appropriate circumstances and pursuant to definitions  
13 and procedures established by the Legislature, any  
14 person over the age of 55 years who resides in property  
15 which is eligible for the homeowner’s exemption under  
16 subdivision (k) of Section 3 of Article XIII and any  
17 implementing legislation may transfer the base year  
18 value of the property entitled to exemption, with the  
19 adjustments authorized by subdivision (b), to any  
20 replacement dwelling of equal or lesser value located  
21 within the same county and purchased or newly  
22 constructed by that person as his or her principal  
23 residence within two years of the sale of the original  
24 property. For purposes of this section, “any person over  
25 the age of 55 years” includes a married couple one  
26 member of which is over the age of 55 years. For purposes  
27 of this section, “replacement dwelling” means a building,  
28 structure, or other shelter constituting a place of abode,  
29 whether real property or personal property, and any land  
30 on which it may be situated. For purposes of this section,  
31 a two-dwelling unit shall be considered as two separate  
32 single-family dwellings. This paragraph shall apply to any  
33 replacement dwelling that was purchased or newly  
34 constructed on or after November 5, 1986.

35 In addition, the Legislature may authorize each county  
36 board of supervisors, after consultation with the local  
37 affected agencies within the county’s boundaries, to  
38 adopt an ordinance making the provisions of this  
39 subdivision relating to transfer of base year value also  
40 applicable to situations in which the replacement

1 dwellings are located in that county and the original  
2 properties are located in another county within this State.  
3 For purposes of this paragraph, “local affected agency”  
4 means any city, special district, school district, or  
5 community college district that receives an annual  
6 property tax revenue allocation. This paragraph shall  
7 apply to any replacement dwelling that was purchased or  
8 newly constructed on or after the date the county  
9 adopted the provisions of this subdivision relating to  
10 transfer of base year value, but shall not apply to any  
11 replacement dwelling that was purchased or newly  
12 constructed before November 9, 1988.

13 The Legislature may extend the provisions of this  
14 subdivision relating to the transfer of base year values  
15 from original properties to replacement dwellings of  
16 homeowners over the age of 55 years to severely disabled  
17 homeowners, but only with respect to those replacement  
18 dwellings purchased or newly constructed on or after the  
19 effective date of this paragraph.

20 (b) The full cash value base may reflect from year to  
21 year the inflationary rate not to exceed 2 percent for any  
22 given year or reduction as shown in the consumer price  
23 index or comparable data for the area under taxing  
24 jurisdiction, or may be reduced to reflect substantial  
25 damage, destruction or other factors causing a decline in  
26 value.

27 (c) For purposes of subdivision (a), the Legislature  
28 may provide that the term “newly constructed” shall not  
29 include any of the following:

30 (1) The construction or addition of any active solar  
31 energy system.

32 (2) The construction or installation of any fire  
33 sprinkler system, other fire extinguishing system, fire  
34 detection system, or fire-related egress improvement, as  
35 defined by the Legislature, that is constructed or installed  
36 after the effective date of this paragraph.

37 (3) The construction, installation, or modification on  
38 or after the effective date of this paragraph of any portion  
39 or structural component of a single- or multiple-family  
40 dwelling that is eligible for the homeowner’s exemption



1 if the construction, installation, or modification is for the  
2 purpose of making the dwelling more accessible to a  
3 severely disabled person.

4 (4) The construction or installation of seismic  
5 retrofitting improvements or improvements utilizing  
6 earthquake hazard mitigation technologies, that are  
7 constructed or installed in existing buildings after the  
8 effective date of this paragraph. The Legislature shall  
9 define eligible improvements. This exclusion does not  
10 apply to seismic safety reconstruction or improvements  
11 which qualify for exclusion pursuant to the last sentence  
12 of the first paragraph of subdivision (a).

13 (5) The construction, installation, removal, or  
14 modification on or after the effective date of this  
15 paragraph of any portion or structural component of an  
16 existing building or structure if the construction,  
17 installation, removal, or modification is for the purpose of  
18 making the building more accessible to, or more usable  
19 by, a disabled person.

20 (d) For purposes of this section, the term “change in  
21 ownership” shall not include the acquisition of real  
22 property as a replacement for comparable property if the  
23 person acquiring the real property has been displaced  
24 from the property replaced by eminent domain  
25 proceedings, by acquisition by a public entity, or  
26 governmental action that has resulted in a judgment of  
27 inverse condemnation. The real property acquired shall  
28 be deemed comparable to the property replaced if it is  
29 similar in size, utility, and function, or if it conforms to  
30 state regulations defined by the Legislature governing  
31 the relocation of persons displaced by governmental  
32 actions. The provisions of this subdivision shall be applied  
33 to any property acquired after March 1, 1975, but shall  
34 affect only those assessments of that property which  
35 occur after the provisions of this subdivision take effect.

36 (e) (1) Notwithstanding any other provision of this  
37 section, the Legislature shall provide that the base year  
38 value of property that is substantially damaged or  
39 destroyed by a disaster, as declared by the Governor, may  
40 be transferred to comparable property within the same

1 county that is acquired or newly constructed as a  
2 replacement for the substantially damaged or destroyed  
3 property.

4 (2) Except as provided in paragraph (3), this  
5 subdivision shall apply to any comparable replacement  
6 property acquired or newly constructed on or after July  
7 1, 1985, and to the determination of base year values for  
8 the 1985–86 fiscal year and fiscal years thereafter.

9 (3) In addition to the transfer of base year value of  
10 property within the same county that is permitted by  
11 paragraph (1), the Legislature may authorize each  
12 county board of supervisors to adopt, after consultation  
13 with affected local agencies within the county, an  
14 ordinance allowing the transfer of the base year value of  
15 property that is located within another county in the  
16 State and is substantially damaged or destroyed by a  
17 disaster, as declared by the Governor, to comparable  
18 replacement property of equal or lesser value that is  
19 located within the adopting county and is acquired or  
20 newly constructed within three years of the substantial  
21 damage or destruction of the original property as a  
22 replacement for that property. The scope and amount of  
23 the benefit provided to a property owner by the transfer  
24 of base year value of property pursuant to this paragraph  
25 shall not exceed the scope and amount of the benefit  
26 provided to a property owner by the transfer of base year  
27 value of property pursuant to subdivision (a). For  
28 purposes of this paragraph, “affected local agency”  
29 means any city, special district, school district, or  
30 community college district that receives an annual  
31 allocation of ad valorem property tax revenues. This  
32 paragraph shall apply to any comparable replacement  
33 property that is acquired or newly constructed as a  
34 replacement for property substantially damaged or  
35 destroyed by a disaster, as declared by the Governor,  
36 occurring on or after October 20, 1991, and to the  
37 determination of base year values for the 1991–92 fiscal  
38 year and fiscal years thereafter.

39 (f) For the purposes of subdivision (e):

1 (1) Property is substantially damaged or destroyed if  
2 it sustains physical damage amounting to more than 50  
3 percent of its value immediately before the disaster.  
4 Damage includes a diminution in the value of property as  
5 a result of restricted access caused by the disaster.

6 (2) Replacement property is comparable to the  
7 property substantially damaged or destroyed if it is  
8 similar in size, utility, and function to the property that  
9 it replaces, and if the fair market value of the acquired  
10 property is comparable to the fair market value of the  
11 replaced property prior to the disaster.

12 (g) For purposes of subdivision (a), the terms  
13 “purchased” and “change in ownership” shall not include  
14 the purchase or transfer of real property between spouses  
15 since March 1, 1975, including, but not limited to, all of the  
16 following:

17 (1) Transfers to a trustee for the beneficial use of a  
18 spouse, or the surviving spouse of a deceased transferor,  
19 or by a trustee of such a trust to the spouse of the trustor.

20 (2) Transfers to a spouse that take effect upon the  
21 death of a spouse.

22 (3) Transfers to a spouse or former spouse in  
23 connection with a property settlement agreement or  
24 decree of dissolution of a marriage or legal separation.

25 (4) The creation, transfer, or termination, solely  
26 between spouses, of any coowner’s interest.

27 (5) The distribution of a legal entity’s property to a  
28 spouse or former spouse in exchange for the interest of  
29 the spouse in the legal entity in connection with a  
30 property settlement agreement or a decree of dissolution  
31 of a marriage or legal separation.

32 (h) (1) For purposes of subdivision (a), the terms  
33 “purchased” and “change in ownership” shall not include  
34 the purchase or transfer of the principal residence of the  
35 transferor in the case of a purchase or transfer between  
36 parents and their children, as defined by the Legislature,  
37 and the purchase or transfer of the first one million dollars  
38 (\$1,000,000) of the full cash value of all other real  
39 property between parents and their children, as defined  
40 by the Legislature. This subdivision shall apply to both

1 voluntary transfers and transfers resulting from a court  
2 order or judicial decree.

3 (2) (A) Subject to subparagraph (B), commencing  
4 with purchases or transfers that occur on or after the date  
5 upon which the measure adding this paragraph becomes  
6 effective, the exclusion established by paragraph (1) also  
7 applies to a purchase or transfer of real property between  
8 grandparents and their grandchild or grandchildren, as  
9 defined by the Legislature, that otherwise qualifies under  
10 paragraph (1), if all of the parents of that grandchild or  
11 those grandchildren, who qualify as the children of the  
12 grandparents, are deceased as of the date of the purchase  
13 or transfer.

14 (B) A purchase or transfer of a principal residence  
15 shall not be excluded pursuant to subparagraph (A) if the  
16 transferee grandchild or grandchildren also received a  
17 principal residence, or interest therein, through another  
18 purchase or transfer that was excludable pursuant to  
19 paragraph (1). The full cash value of any real property,  
20 other than a principal residence, that was transferred to  
21 the grandchild or grandchildren pursuant to a purchase  
22 or transfer that was excludable pursuant to paragraph  
23 (1), and the full cash value of a principal residence that  
24 fails to qualify for exclusion as a result of the preceding  
25 sentence, shall be included in applying, for purposes of  
26 subparagraph (A), the one million dollar (\$1,000,000) full  
27 cash value limit specified in paragraph (1).

28 (i) (1) Notwithstanding any other provision of this  
29 section, with respect to a qualified contaminated  
30 property, as defined in paragraph (2), either, but not  
31 both, of the following shall apply:

32 (A) The base year value of the qualified contaminated  
33 property may be transferred to a replacement real  
34 property of equal or lesser value located within the same  
35 county that is acquired or newly constructed as a  
36 replacement for the qualified contaminated property.  
37 The base year value of the qualified contaminated  
38 property may be transferred to a replacement real  
39 property of equal or lesser value located within another  
40 county, if the board of supervisors of that other county



1 has, after consultation with the affected local agencies  
2 within that county, previously adopted a resolution  
3 authorizing an intercounty transfer of base year value as  
4 so described.

5 (B) In the case in which the remediation of the  
6 environmental problems on the qualified contaminated  
7 property requires the destruction of, or results in  
8 substantial damage to, a structure located on that  
9 property, the term “new construction” does not include  
10 the repair of that structure, or the construction of a  
11 replacement structure on the qualified contaminated  
12 property, performed after the remediation of the  
13 environmental problems on that property, provided that  
14 the repaired or replacement structure is similar in size,  
15 utility, and function to the original structure.

16 (2) For purposes of this subdivision, “qualified  
17 contaminated property” means *residential or*  
18 *commercial* real property that is all of the following:

19 (A) ~~Rendered uninhabitable~~ *In the case of residential*  
20 *real property, rendered uninhabitable, and in the case of*  
21 *commercial real property, rendered unusable*, as the  
22 result of either environmental problems, including, but  
23 not limited to, the presence of toxic or hazardous  
24 materials, or the remediation of those environmental  
25 problems. For purposes of this subparagraph, *residential*  
26 *real property* is “uninhabitable” if that property, as a  
27 result of health hazards, is unfit for human habitation, *and*  
28 *commercial real property* is “unusable” if that property,  
29 *as a result of health hazards, is unhealthy and unsuitable*  
30 *for occupancy*.

31 (B) Located on a site that has been designated as a  
32 toxic or environmental hazard or as an environmental  
33 cleanup site by an agency of the State of California or the  
34 federal government.

35 (C) Real property that contains a structure or  
36 structures thereon prior to the completion of  
37 environmental cleanup activities, and that structure or  
38 structures ~~were~~ *are* substantially damaged or destroyed  
39 as a result of those environmental cleanup activities.

1 (D) Stipulated by the lead governmental agency, with  
2 respect to the environmental problems or environmental  
3 cleanup of the real property, not to have been rendered  
4 uninhabitable *or unusable, as applicable*, as described in  
5 subparagraph (A), by any act or omission of any owner of  
6 that real property.

7 (3) It shall be rebuttably presumed that any owner of  
8 the real property participated or acquiesced in any act or  
9 omission that rendered the real property uninhabitable  
10 *or unusable, as applicable*, if that owner is related to any  
11 individual or entity that committed that act or omission  
12 in any of the following ways:

13 (A) Is a spouse, parent, child, grandparent,  
14 grandchild, or sibling of that individual.

15 (B) Is a corporate parent, subsidiary, or affiliate of that  
16 entity.

17 (C) Is an owner of, or has control of, that entity.

18 (D) Is owned or controlled by that entity.

19 If this presumption is not overcome, the owner shall not  
20 receive the relief provided for in subparagraph (A) or  
21 (B) of paragraph (1). The presumption may be overcome  
22 by presentation of satisfactory evidence to the assessor,  
23 who shall not be bound by the findings of the lead  
24 governmental agency in determining whether the  
25 presumption has been overcome.

26 (4) This subdivision shall apply only to real property  
27 that is qualified contaminated property on or after  
28 January 1, 1995.

29 (j) Unless specifically provided otherwise,  
30 amendments to this section adopted prior to November  
31 1, 1988, shall be effective for changes in ownership which  
32 occur, and new construction which is completed, after  
33 the effective date of the amendment. Unless specifically  
34 provided otherwise, amendments to this section adopted  
35 after November 1, 1988, shall be effective for changes in  
36 ownership which occur, and new construction which is  
37 completed, on or after the effective date of the  
38 amendment.

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